

HOUSE BILL 1236

E4

11r2319

By: **Delegates Gutierrez, Valderrama, Carr, Carter, Cullison, Hucker, and A. Kelly**

Introduced and read first time: February 21, 2011

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers – Racial Profiling – Prohibited**

3 FOR the purpose of prohibiting a law enforcement officer from engaging in racial
4 profiling; establishing certain penalties for a certain violation of this Act;
5 requiring each law enforcement agency to establish certain administrative
6 complaint procedures; requiring the Division of Consumer Protection of the
7 Office of the Attorney General to establish certain procedures; authorizing the
8 Division to institute a certain proceeding under certain circumstances;
9 authorizing a person who has sustained damages resulting from a violation of
10 this Act to bring a certain action for damages; defining certain terms; and
11 generally relating to prohibiting racial profiling by law enforcement officers.

12 BY adding to

13 Article – Public Safety

14 Section 3–508

15 Annotated Code of Maryland

16 (2003 Volume and 2010 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Public Safety**

20 **3–508.**

21 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
22 **MEANINGS INDICATED.**

23 **(2) “LAW ENFORCEMENT AGENCY” MEANS AN AGENCY THAT IS**
24 **LISTED IN § 3–101(E) OF THIS TITLE.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(3) “LAW ENFORCEMENT OFFICER” MEANS ANY PERSON WHO, IN**
2 **AN OFFICIAL CAPACITY, IS AUTHORIZED BY LAW TO MAKE ARRESTS AND WHO IS**
3 **AN EMPLOYEE OF A LAW ENFORCEMENT AGENCY THAT IS SUBJECT TO THIS**
4 **SECTION.**

5 **(4) “RACE OR ETHNICITY” MEANS THE IDENTIFICATION OF A**
6 **PERSON AS:**

7 **(I) ASIAN;**

8 **(II) BLACK;**

9 **(III) HISPANIC;**

10 **(IV) WHITE;**

11 **(V) NATIVE AMERICAN; OR**

12 **(VI) OTHER.**

13 **(5) “RACIAL PROFILING” MEANS THE USE OF AN INDIVIDUAL’S**
14 **RACE OR ETHNICITY AS A FACTOR IN DETAINING, INTERDICTING, OR GIVING**
15 **OTHER DISPARATE TREATMENT TO THE INDIVIDUAL, INCLUDING:**

16 **(I) DETERMINING THE EXISTENCE OF PROBABLE CAUSE TO**
17 **PLACE IN CUSTODY OR ARREST THE INDIVIDUAL; AND**

18 **(II) CONSTITUTING REASONABLE AND ARTICULABLE**
19 **SUSPICION THAT AN OFFENSE HAS BEEN OR IS BEING COMMITTED TO JUSTIFY**
20 **THE DETENTION OF THE INDIVIDUAL OR THE INVESTIGATORY STOP OF A MOTOR**
21 **VEHICLE.**

22 **(B) A LAW ENFORCEMENT OFFICER MAY NOT ENGAGE IN RACIAL**
23 **PROFILING.**

24 **(C) A LAW ENFORCEMENT OFFICER WHO VIOLATES SUBSECTION (B) OF**
25 **THIS SECTION IS SUBJECT TO:**

26 **(1) FOR A FIRST OR SECOND OFFENSE:**

27 **(I) A CIVIL PENALTY NOT EXCEEDING \$1,000;**

1 (II) SUSPENSION WITHOUT PAY NOT EXCEEDING 3 MONTHS;
2 OR

3 (III) MANDATORY ATTENDANCE AT A COMMUNITY
4 SENSITIVITY TRAINING PROGRAM APPROVED BY THE DIVISION OF PAROLE AND
5 PROBATION; AND

6 (2) FOR A THIRD OR SUBSEQUENT OFFENSE, TERMINATION OF
7 EMPLOYMENT.

8 (D) EACH LAW ENFORCEMENT AGENCY SHALL ESTABLISH
9 ADMINISTRATIVE COMPLAINT PROCEDURES TO ADDRESS COMPLAINTS OF
10 RACIAL PROFILING, INCLUDING:

11 (1) PROVIDING APPROPRIATE FORMS FOR SUBMITTING A
12 COMPLAINT AGAINST A LAW ENFORCEMENT OFFICER;

13 (2) INVESTIGATING A COMPLAINT ALLEGING THAT A LAW
14 ENFORCEMENT OFFICER VIOLATED SUBSECTION (B) OF THIS SECTION; AND

15 (3) TAKING THE APPROPRIATE MEASURES TO DISCIPLINE A LAW
16 ENFORCEMENT OFFICER WHO HAS VIOLATED SUBSECTION (B) OF THIS
17 SECTION.

18 (E) THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE
19 ATTORNEY GENERAL:

20 (1) SHALL ESTABLISH PROCEDURES FOR RECEIVING AND
21 MAINTAINING A RECORD OF COMPLAINTS ALLEGING A VIOLATION OF
22 SUBSECTION (B) OF THIS SECTION AGAINST LAW ENFORCEMENT OFFICERS; AND

23 (2) MAY INSTITUTE A PROCEEDING UNDER TITLE 13 OF THE
24 COMMERCIAL LAW ARTICLE IF THE DIVISION HAS REASON TO BELIEVE A LAW
25 ENFORCEMENT OFFICER HAS VIOLATED SUBSECTION (B) OF THIS SECTION.

26 (F) NOTWITHSTANDING ANY OTHER LAW, INCLUDING THE MARYLAND
27 TORT CLAIMS ACT AND THE LOCAL GOVERNMENT TORT CLAIMS ACT, AN
28 INDIVIDUAL WHO HAS SUSTAINED DAMAGES RESULTING FROM AN ACTION
29 PROHIBITED UNDER THIS SECTION MAY BRING AN ACTION AGAINST A LAW
30 ENFORCEMENT OFFICER AND THE LAW ENFORCEMENT OFFICER'S EMPLOYER
31 FOR COMPENSATORY AND PUNITIVE DAMAGES.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2011.